



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,041	06/20/2001	Frampton E. Ellis III	313449-P0001 C1	3126
47604	7590	12/12/2007		
DLA PIPER US LLP P. O. BOX 9271 RESTON, VA 20195			EXAMINER STRANGE, AARON N	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/884,041

Applicant(s)

ELLIS, FRAMPTON E.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 130-280 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 130-280 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20070730;20070924</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 130-280 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 9, 10, 12-18, 20, 22, 25-27, 30-42, 53, 55-57, 61-64 and 66-103 of copending Application No. 09/085,755. Although the conflicting claims are not identical, they are not patentably

distinct from each other because all claims of both applications share the aspect of a firewall configured to allow/deny access to portions of the microchip from the network.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. In the interest of expedited prosecution, since Applicant has a large number of issued patents and copending applications, the Examiner requests Applicant's assistance in identifying additional applications, if any, that share the aspect of a firewall configured to allow/deny access to portions of the microchip from the network.

Claim Rejections - 35 USC § 112

5. Claims 130-280 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The claims are generally indefinite and are replete with typographical and grammatical errors. Several examples have been provided below, but these should not be considered comprehensive. Applicant is required to correct all of the issues identified below as well as any remaining.

7. Claim 130 recites the limitation "the network" in lines 9 and 10. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 134 recites the limitation "the second personal computer". There is insufficient antecedent basis for this limitation in the claim.
9. With regard to claim 136, the limitation "a shared operation comprising at least the personal computer and a second computer" is unclear. It is unclear how an "operation" may comprise computers.
10. Claim 138 recites the limitation "the shared operation". There is insufficient antecedent basis for this limitation in the claim. Claim 140 is rejected under the same rationale.
11. Regarding claim 139, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
12. Claim 148 recites the limitation "the at least one other computer of the network" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 149 contains a similar recitation and is rejected under the same rationale.
13. With regard to claim 171, the limitation "wherein the personal computer comprises a direct optical fiber connection to the microchip" is unclear. Claim 130, from

which claim 171 depends, states that the personal computer comprises the microchip, so it is unclear how the personal computer may have an optical fiber connection to itself.

14. With regard to claim 175, the limitation "wherein the microchip comprises active configuration of an integrated circuit of the microchip" is unclear. It is unclear how the microchip may "comprise" what appears to be an operation of "active configuration".

15. Claim 186 recites the limitation "the personal communications device". There is insufficient antecedent basis for this limitation in the claim.

16. With regard to claim 191, the limitation "wherein the personal computer comprises an optical fiber network connection mechanism configured to connect the personal computer to the network" is unclear. Claim 130, from which claim 191 depends, states that the computer has a wireless network connection mechanism to connect to the network. It is unclear if the optical connection is intended to replace the wireless connection or be an additional connection. It is also unclear if the optical connection and the wireless connection are intended to connect to the same network.

17. As noted above, these examples are not intended to be an exhaustive list. Numerous claims, similar in scope to those identified above, contain similar limitations. All claims should be reviewed, with particular emphasis placed on ensuring proper

dependency and antecedent basis for all claim limitations. If there are any questions, Applicant is invited to contact the Examiner to schedule an interview.

Allowable Subject Matter

18. Claims 130-280 appear to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
09/884,041
Art Unit: 2153

Page 7

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
12/3/07



GLENDON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100